

House File 2713 - Reprinted

HOUSE FILE _____
BY COMMITTEE ON
STATE GOVERNMENT

(SUCCESSOR TO HF 321)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act changing the bid threshold requirement for certain public
2 improvement contracts and providing for an effective date.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 6577HV 81
5 eg/cf/24

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1 1 Section 1. NEW SECTION. 38.1 CITATION.
1 2 This chapter shall be known and may be cited as the "Iowa
1 3 Construction Bidding Procedures Act".
1 4 Sec. 2. NEW SECTION. 38.2 DEFINITIONS.
1 5 As used in this chapter, unless the context clearly
1 6 indicates otherwise:
1 7 1. "Estimated total cost of a public improvement" or
1 8 "estimated total cost" means the estimated total cost to the
1 9 governmental entity to construct a public improvement,
1 10 including cost of labor, materials, equipment, and supplies,
1 11 but excluding the cost of architectural or engineering design
1 12 services and inspection.
1 13 2. "Governmental entity" means the state, political
1 14 subdivisions of the state, public school corporations, and all
1 15 officers, boards, or commissions empowered by law to enter
1 16 into contracts for the construction of public improvements,
1 17 excluding the state board of regents and the state department
1 18 of transportation.
1 19 3. "Public improvement" means a building or construction
1 20 work which is constructed under the control of a governmental
1 21 entity and is paid for in whole or in part with funds of the
1 22 governmental entity, including a building or improvement
1 23 constructed or operated jointly with any other public or
1 24 private agency, but excluding urban renewal demolition and
1 25 low-rent housing projects, industrial aid projects authorized
1 26 under chapter 419, emergency work or repair or maintenance
1 27 work performed by employees of a governmental entity, and
1 28 excluding a highway, bridge, or culvert project, and excluding
1 29 construction or repair or maintenance work performed for a
1 30 city utility under chapter 388 by its employees or performed
1 31 for a rural water district under chapter 357A by its
1 32 employees.
1 33 4. "Repair or maintenance work" means the preservation of
1 34 a road, street, bridge, culvert, storm sewer, sanitary sewer,
1 35 or other public facility so that it remains in sound or proper
2 1 condition, including minor replacements and additions as
2 2 necessary to restore the public facility to its original
2 3 condition with the same design.
2 4 Sec. 3. NEW SECTION. 38.3 COMPETITIVE BIDS FOR PUBLIC
2 5 IMPROVEMENT CONTRACTS.
2 6 1. If the estimated total cost of a public improvement
2 7 exceeds the competitive bid threshold of one hundred thousand
2 8 dollars, or the adjusted competitive bid threshold established
2 9 in section 314.1B, the governmental entity shall advertise for
2 10 sealed bids for the proposed public improvement by publishing
2 11 a notice to bidders as provided in section 362.3.
2 12 Additionally, the governmental entity may publish a notice in
2 13 a relevant contractor organization publication and a relevant
2 14 contractor plan room service with statewide circulation,
2 15 provided that a notice is posted on a website sponsored by
2 16 either a governmental entity or a statewide association that
2 17 represents the governmental entity. The notice to bidders

2 18 shall be published more than twenty days but not more than
2 19 forty-five days before the date for filing bids.

2 20 2. A governmental entity shall have an engineer licensed
2 21 under chapter 542B or an architect registered under chapter
2 22 544A prepare plans and specifications, and calculate the
2 23 estimated total cost of a proposed public improvement.

2 24 3. Sections 38.4 through 38.13 apply to all competitive
2 25 bidding pursuant to this section.

2 26 Sec. 4. NEW SECTION. 38.4 EXEMPTIONS FROM COMPETITIVE
2 27 BIDS AND QUOTATIONS.

2 28 Architectural or engineering design services procured for a
2 29 public improvement are not subject to sections 38.3 and 38.14.

2 30 Sec. 5. NEW SECTION. 38.5 PROHIBITED CONTRACTS.

2 31 If the estimated total cost of a public improvement exceeds
2 32 the competitive bid threshold of one hundred thousand dollars,
2 33 or as established in section 314.1B, a governmental entity
2 34 shall not divide the public improvement project into separate
2 35 parts, regardless of intent, if a resulting part of the public
3 1 improvement project is not let in accordance with section
3 2 38.3.

3 3 Sec. 6. NEW SECTION. 38.6 DONATED FUNDS.

3 4 If private funds are offered to a governmental entity for a
3 5 building or an improvement to be used by the public and such
3 6 funds are conditioned upon private construction of the
3 7 building or improvement, this chapter shall not apply to the
3 8 project if the governmental entity does not contribute any
3 9 funds to such construction.

3 10 Sec. 7. NEW SECTION. 38.7 NOTICE TO BIDDERS.

3 11 The notice to bidders shall adequately notify a potential
3 12 bidder of a proposed bid and shall include the following
3 13 items:

3 14 1. The time and place for filing sealed proposals.

3 15 2. The time and place sealed proposals will be opened and
3 16 considered on behalf of the governmental entity.

3 17 3. The general nature of the public improvement on which
3 18 bids are requested.

3 19 4. In general terms when the work must be commenced and
3 20 completed.

3 21 5. That each bidder shall accompany the bid with a bid
3 22 security as defined in section 38.8 and as specified by the
3 23 governmental entity.

3 24 6. Any further information which the governmental entity
3 25 deems pertinent.

3 26 The notice to bidders may provide that bids will be
3 27 received for the furnishing of all labor and materials and
3 28 furnishing or installing equipment under one contract, or for
3 29 parts thereof in separate sections.

3 30 On public improvements to be financed wholly or partially
3 31 by special assessments against benefited property, the
3 32 governmental entity, in the notice to bidders, may request
3 33 aggregate bids for all projects included in any resolution of
3 34 necessity, notwithstanding variations in the sizes of the
3 35 improvements and notwithstanding that some parts of the
4 1 improvements are assessable and some nonassessable, and may
4 2 award the contract to the lowest responsive, responsible
4 3 bidder submitting the lowest aggregate bid.

4 4 Sec. 8. NEW SECTION. 38.8 BID SECURITY.

4 5 1. Each bidder shall accompany its bid with a bid security
4 6 as security that the successful bidder will enter into a
4 7 contract for the work bid upon and will furnish after the
4 8 award of contract a corporate surety bond, acceptable to the
4 9 governmental entity, for the faithful performance of the
4 10 contract, in an amount equal to one hundred percent of the
4 11 amount of the contract. The bid security shall be in an
4 12 amount fixed by the governmental entity, and shall be in the
4 13 form of a cashier's check or certified check drawn on a state=
4 14 chartered or federally chartered bank, or a certified share
4 15 draft drawn on a state=chartered or federally chartered credit
4 16 union, or the governmental entity may provide for a bidder's
4 17 bond with corporate surety satisfactory to the governmental
4 18 entity. The bid bond shall contain no conditions except as
4 19 provided in this section.

4 20 2. The governmental entity shall fix the amount of bid
4 21 security prior to ordering publication of the notice to
4 22 bidders and such amount must equal at least five percent, but
4 23 shall not exceed ten percent of either the estimated total
4 24 contract cost of the public improvement, or the amount of each
4 25 bid.

4 26 Sec. 9. NEW SECTION. 38.9 AWARD OF CONTRACT.

4 27 The contract for the public improvement must be awarded to
4 28 the lowest responsive, responsible bidder. However, contracts

4 29 relating to public utilities or extensions or improvements
4 30 thereof, as described in sections 384.80 through 384.94, may
4 31 be awarded by the city as it deems to be in the best interests
4 32 of the city. This section shall not be construed to prohibit
4 33 a governmental entity in the award of a contract for a public
4 34 improvement or a governing body of a city utility from
4 35 providing, in the award of a contract for a public
5 1 improvement, an enhancement of payments upon early completion
5 2 of the public improvement if the availability of the
5 3 enhancement payments is included in the notice to bidders, the
5 4 enhancement payments are competitively neutral to potential
5 5 bidders, the enhancement payments are considered as a separate
5 6 item in the public hearing on the award of contract, and the
5 7 total value of the enhancement payments does not exceed ten
5 8 percent of the value of the contract.

5 9 Sec. 10. NEW SECTION. 38.10 OPENING AND CONSIDERING
5 10 BIDS.

5 11 The governmental entity shall open, announce the amount of
5 12 the bids, and file all proposals received, at the time and
5 13 place specified in the notice to bidders. The governmental
5 14 entity may, by resolution, award the contract for the public
5 15 improvement to the bidder submitting the lowest responsive,
5 16 responsible bid, determined as provided in section 38.9, or
5 17 the governmental entity may reject all bids received, fix a
5 18 new date for receiving bids, and order publication of a new
5 19 notice to bidders. The governmental entity shall retain the
5 20 bid security furnished by the successful bidder until the
5 21 approved contract form has been executed, and a bond filed by
5 22 the bidder guaranteeing the performance of the contract, and
5 23 the contract and bond, have been approved by the governmental
5 24 entity. The provisions of chapter 573, where applicable,
5 25 apply to contracts awarded under this chapter.

5 26 The governmental entity shall promptly return the checks or
5 27 bidder's bonds of unsuccessful bidders to the bidders as soon
5 28 as the successful bidder is determined or within thirty days
5 29 whichever is sooner.

5 30 Sec. 11. NEW SECTION. 38.11 DELEGATION OF AUTHORITY.

5 31 When bids are required for any public improvement, the
5 32 governmental entity may delegate, by motion, resolution, or
5 33 policy to the city manager, clerk, engineer, or other public
5 34 officer, as applicable, the duty of receiving and opening bids
5 35 and announcing the results. The officer shall report the
6 1 results of the bidding with the officer's recommendations to
6 2 the next meeting of the governmental entity's governing body.

6 3 Sec. 12. NEW SECTION. 38.12 WHEN HEARING NECESSARY.

6 4 If the estimated total cost of a public improvement exceeds
6 5 the competitive bid threshold in section 38.3, or as adjusted
6 6 in section 314.1B, the governmental entity shall not enter
6 7 into a contract for the public improvement until the
6 8 governmental entity has held a public hearing and has approved
6 9 the proposed plans, specifications, and form of contract, and
6 10 estimated total cost of the public improvement. Notice of the
6 11 hearing must be published as provided in section 362.3. At
6 12 the hearing any interested person may appear and file
6 13 objections to the proposed plans, specifications, contract, or
6 14 estimated cost of the public improvement. After hearing
6 15 objections, the governmental entity shall by resolution enter
6 16 its decision on the plans, specifications, contract, and
6 17 estimated cost. This section does not apply to the state.

6 18 Sec. 13. NEW SECTION. 38.13 EARLY RELEASE OF RETAINED
6 19 FUNDS.

6 20 Payments made by a governmental entity or the state
6 21 department of transportation for the construction of public
6 22 improvements and highway, bridge, or culvert projects shall be
6 23 made in accordance with the provisions of chapter 573, except
6 24 as provided in this section. For purposes of this section,
6 25 "department" means the state department of transportation.

6 26 1. At any time after all or any part of the work on the
6 27 public improvement or highway, bridge, or culvert project is
6 28 substantially completed, the contractor may request the
6 29 release of all or part of the retained funds owed. The
6 30 request shall be accompanied by a sworn statement of the
6 31 contractor that, ten calendar days prior to filing the
6 32 request, notice was given as required by subsection 7 to all
6 33 known subcontractors, sub-subcontractors, and suppliers.

6 34 2. Except as provided under subsection 3, upon receipt of
6 35 the request, the governmental entity or the department shall
7 1 release all or part of the retained funds. Retained funds
7 2 that are approved as payable shall be paid at the time of the
7 3 next monthly payment or within thirty days, whichever is
7 4 sooner. If partial retained funds are released pursuant to a

5 contractor's request, no retained funds shall be subsequently
6 held based on that portion of the work. If within thirty days
7 of when payment becomes due the governmental entity or the
8 department does not release the retained funds due, interest
9 shall accrue on the amount of retained funds at the rate of
10 interest that is calculated as the prime rate plus one percent
11 per year as of the day interest begins to accrue until the
12 amount is paid.

13 3. If at the time of the request for the release of the
14 retained funds labor or materials are yet to be provided, an
15 amount equal to two hundred percent of the value of the labor
16 or materials yet to be provided, as determined by the
17 governmental entity's or the department's authorized contract
18 representative, may be withheld until such labor or materials
19 are provided. For purposes of this section, "authorized
20 contract representative" means the person chosen by the
21 governmental entity or the department to represent its
22 interests or the person designated in the contract as the
23 party representing the governmental entity's or the
24 department's interest regarding administration and oversight
25 of the project.

26 4. An itemization of the labor or materials yet to be
27 provided, or the reason that the request for release of
28 retained funds is denied, shall be provided to the contractor
29 in writing within thirty calendar days of the receipt of the
30 request for release of retained funds.

31 5. For purposes of this section, "substantially completed"
32 means the first date on which any of the following occurs:

33 a. Completion of the public improvement project or the
34 highway, bridge, or culvert project or when the work on the
35 public improvement or the highway, bridge, or culvert project
1 has been substantially completed in general accordance with
2 the terms and provisions of the contract.

3 b. The work on the public improvement or on the designated
4 portion is substantially completed in general accordance with
5 the terms of the contract so that the governmental entity or
6 the department can occupy or utilize the public improvement or
7 designated portion of the public improvement for its intended
8 purpose. This paragraph shall not apply to highway, bridge,
9 or culvert projects.

10 c. The public improvement project or the highway, bridge,
11 or culvert project is certified as having been substantially
12 completed by either of the following:

13 (1) The architect or engineer authorized to make such
14 certification.

15 (2) The authorized contract representative.

16 d. The governmental entity or the department is occupying
17 or utilizing the public improvement for its intended purpose.
18 This paragraph shall not apply to highway, bridge, or culvert
19 projects.

20 6. The contractor shall release retained funds to the
21 subcontractor or subcontractors in the same manner as retained
22 funds are released to the contractor by the governmental
23 entity or the department. Each subcontractor shall pass
24 through to each lower tier subcontractors all retained fund
25 payments from the contractor.

26 7. Prior to applying for release of retained funds, the
27 contractor shall send a notice to all known subcontractors,
28 sub= subcontractors, and suppliers that provided labor or
29 materials for the public improvement project or the highway,
30 bridge, or culvert project. The notice shall be substantially
31 similar to the following:

32 "NOTICE OF CONTRACTOR'S REQUEST FOR EARLY RELEASE OF
33 RETAINED FUNDS

34 You are hereby notified that [name of contractor] will be
35 requesting an early release of funds on a public improvement
1 project or a highway, bridge, or culvert project designated as
2 [name of project] for which you have or may have provided
3 labor or materials. The request will be made pursuant to Iowa
4 Code section 38.13. The request may be filed with the [name
5 of governmental entity or department] after ten calendar days
6 from the date of this notice. The purpose of the request is
7 to have [name of governmental entity or department] release
8 and pay funds for all work that has been performed and charged
9 to [name of governmental entity or department] as of the date
10 of this notice. This notice is provided in accordance with
11 Iowa Code section 38.13."

12 Sec. 14. NEW SECTION. 38.14 COMPETITIVE QUOTATIONS FOR
13 PUBLIC IMPROVEMENT CONTRACTS.

14 1. Competitive quotations shall be required for a public
15 improvement having an estimated total cost that exceeds the

9 16 amount provided in this section, but is less than the
9 17 competitive bid threshold established in section 38.3.
9 18 2. Unless the threshold amount is adjusted pursuant to
9 19 section 314.1B, the competitive quotation threshold shall be
9 20 as follows:
9 21 a. Sixty=seven thousand dollars for a county, including a
9 22 county hospital.
9 23 b. Fifty=one thousand dollars for a city having a
9 24 population of fifty thousand or more.
9 25 c. Fifty=one thousand dollars for a school district having
9 26 a population of fifty thousand or more.
9 27 d. Fifty=one thousand dollars for an aviation authority
9 28 created within a city having a population of fifty thousand or
9 29 more.
9 30 e. Thirty=six thousand dollars for a city having a
9 31 population of less than fifty thousand, for a school district
9 32 having a population of less than fifty thousand, and for any
9 33 other governmental entity.
9 34 f. The threshold amount applied to a city applies to a
9 35 city hospital.

10 1 3. a. When a competitive quotation is required, the
10 2 governmental entity shall make a good faith effort to obtain
10 3 quotations for the work from at least two contractors
10 4 regularly engaged in such work prior to letting a contract.
10 5 Quotations may be obtained from contractors after the
10 6 governmental entity provides a description of the work to be
10 7 performed, including the plans and specifications prepared by
10 8 an architect or engineer, if required under chapter 542B or
10 9 544A, and an opportunity to inspect the work site. The
10 10 contractor shall include in the quotation the price for labor,
10 11 materials, equipment, and supplies required to perform the
10 12 work. If the work can be performed by an employee or
10 13 employees of the governmental entity, the governmental entity
10 14 may file a quotation for the work to be performed in the same
10 15 manner as a contractor.

10 16 b. The governmental entity shall designate the time,
10 17 place, and manner for filing quotations, which may be received
10 18 by mail, facsimile, or electronic mail. The governmental
10 19 entity shall record the approved quotation in meeting minutes.
10 20 Quotations approved outside a meeting of the governing body of
10 21 a governmental entity shall be included in the minutes of the
10 22 next meeting of the governing body. The governmental entity
10 23 shall award the contract to the contractor submitting the
10 24 lowest responsive, responsible quotation subject to section
10 25 38.9, or the governmental entity may reject all of the
10 26 quotations.

10 27 c. If a public improvement may be performed by an employee
10 28 of the governmental entity, the amount of estimated sales and
10 29 fuel tax which a contractor identifies in its quotation shall
10 30 be deducted from the contractor's price for determining the
10 31 lowest responsible bidder. If no quotations are received to
10 32 perform the work, or if the governmental entity's estimated
10 33 cost to do the work with its employee is less than the lowest
10 34 responsive, responsible quotation received, the governmental
10 35 entity may authorize its employee or employees to perform the
11 1 work.

11 2 Sec. 15. NEW SECTION. 38.15 STRUCTURE DEMOLITION
11 3 PROJECT.

11 4 A governmental entity may enter into annual contracts with
11 5 multiple contractors for structure demolition projects, with
11 6 each project having a total estimated cost of one hundred
11 7 thousand dollars or less, or each project having a total
11 8 estimated cost equal to or less than the competitive bid
11 9 threshold as established in section 314.1B. The governmental
11 10 entity shall solicit contractors by publishing a notice as
11 11 provided in section 362.3. A contractor is eligible to
11 12 perform structure demolition work for the governmental entity
11 13 after the contractor executes an annual demolition contract in
11 14 a form satisfactory to the governmental entity, including a
11 15 bond and insurance. For the twelve=month period following
11 16 execution of the contract or contracts, the governmental
11 17 entity may obtain competitive proposals from each eligible
11 18 contractor as necessary for the demolition of structures. The
11 19 contractor submitting the lowest responsible proposal shall
11 20 enter into a contract addendum to perform the work.

11 21 Sec. 16. Section 8A.311, subsection 10, paragraph a, Code
11 22 Supplement 2005, is amended to read as follows:

11 23 a. When the estimated total cost of construction,
11 24 erection, demolition, alteration, or repair of a public
11 25 improvement exceeds ~~twenty-five thousand dollars~~ the
11 26 competitive bid threshold in section 38.3, or as established

~~11 27 in section 314.1B, the department shall solicit bids on the~~
~~11 28 proposed improvement by publishing an advertisement in a print~~
~~11 29 format. The advertisement shall appear in two publications in~~
~~11 30 a newspaper published in the county in which the work is to be~~
~~11 31 done. The first advertisement for bids appearing in a~~
~~11 32 newspaper shall be not less than fifteen days prior to the~~
~~11 33 date set for receiving bids. The department may publish an~~
~~11 34 advertisement in an electronic format as an additional method~~
~~11 35 of soliciting bids under this paragraph comply with chapter~~
~~12 1 38.~~

12 2 Sec. 17. Section 28J.9, subsection 18, paragraph b, Code
12 3 Supplement 2005, is amended to read as follows:
12 4 b. Except as provided in paragraph "c", when the cost of a
12 5 contract for the construction of a building, structure, or
12 6 other improvement undertaken by a port authority involves an
12 7 expenditure exceeding ~~twenty-five thousand dollars the~~
12 8 competitive bid threshold in section 38.3, or as established
12 9 in section 314.1B, and the port authority is the contracting
12 10 entity, the port authority shall make a written contract after
12 11 notice calling for bids for the award of the contract has been
12 12 given by publication twice, with at least seven days between
12 13 publications, in a newspaper of general circulation in the
12 14 area of the port authority. Each such contract shall be let
12 15 to the lowest responsive and responsible bidder. Every
12 16 contract shall be accompanied by or shall refer to plans and
12 17 specifications for the work to be done, prepared for and
12 18 approved by the port authority, and signed by an authorized
12 19 officer of the port authority and by the contractor.

12 20 Sec. 18. Section 35A.10, subsections 2 and 3, Code 2005,
12 21 are amended to read as follows:

12 22 2. The commandant and the commission shall have plans and
12 23 specifications prepared by the department of administrative
12 24 services for authorized construction, repair, or improvement
12 25 projects in excess of ~~twenty-five thousand dollars the~~
12 26 competitive bid threshold in section 38.3, or as established
12 27 in section 314.1B. An appropriation for a project shall not
12 28 be expended until the department of administrative services
12 29 has adopted plans and specifications and has completed a
12 30 detailed estimate of the cost of the project, prepared under
12 31 the supervision of a registered architect or registered
12 32 professional engineer.

12 33 3. The director of the department of administrative
12 34 services shall, in writing, let all contracts for authorized
12 35 improvements in excess of ~~twenty-five thousand dollars the~~
13 1 competitive bid threshold in section 38.3, or as established
13 2 in section 314.1B in accordance with chapter 8A, subchapter
13 3 III, and chapter 38. The director of the department of
13 4 administrative services shall not authorize payment for
13 5 construction purposes until satisfactory proof has been
13 6 furnished by the proper officer or supervising architect that
13 7 the parties have complied with the contract.

13 8 Sec. 19. Section 73A.1, subsection 2, Code Supplement
13 9 2005, is amended to read as follows:

~~13 10 2. "Municipality" as used in this chapter means township,~~
~~13 11 school corporation, and or the state fair board.~~

13 12 Sec. 20. Section 73A.2, Code 2005, is amended to read as
13 13 follows:

13 14 73A.2 NOTICE OF HEARING.

13 15 Before any municipality shall enter into any contract for
13 16 any public improvement to cost ~~twenty-five thousand dollars or~~
~~13 17 more in excess of the competitive bid threshold in section~~
13 18 38.3, or as established in section 314.1B, the governing body
13 19 proposing to make the contract shall adopt proposed plans and
13 20 specifications and proposed form of contract, fix a time and
13 21 place for hearing at the municipality affected or other nearby
13 22 convenient place, and give notice by publication in at least
13 23 one newspaper of general circulation in the municipality at
13 24 least ten days before the hearing.

13 25 Sec. 21. Section 73A.18, Code 2005, is amended to read as
13 26 follows:

13 27 73A.18 WHEN BIDS REQUIRED == ADVERTISEMENT == DEPOSIT.

13 28 When the estimated total cost of construction, erection,
13 29 demolition, alteration or repair of a public improvement
13 30 exceeds ~~twenty-five thousand dollars the competitive bid~~
13 31 threshold in section 38.3, or as established in section

13 32 314.1B, the municipality shall advertise for bids on the
13 33 proposed improvement by two publications in a newspaper
13 34 published in the county in which the work is to be done. The
13 35 first advertisement for bids shall be not less than fifteen
14 1 days prior to the date set for receiving bids. The
14 2 municipality shall let the work to the lowest responsible

14 3 bidder submitting a sealed proposal. However, if in the
14 4 judgment of the municipality bids received are not acceptable,
14 5 all bids may be rejected and new bids requested. A bid shall
14 6 be accompanied, in a separate envelope, by a deposit of money
14 7 or a certified check or credit union certified share draft in
14 8 an amount to be named in the advertisement for bids as
14 9 security that the bidder will enter into a contract for the
14 10 doing of the work. The municipality shall fix the bid
14 11 security in an amount equal to at least five percent, but not
14 12 more than ten percent of the estimated total cost of the work.
14 13 The checks, share drafts or deposits of money of the
14 14 unsuccessful bidders shall be returned as soon as the
14 15 successful bidder is determined, and the check, share draft or
14 16 deposit of money of the successful bidder shall be returned
14 17 upon execution of the contract documents. ~~This section does~~
~~14 18 not apply to the construction, erection, demolition,~~
~~14 19 alteration or repair of a public improvement when the~~
~~14 20 contracting procedure for the doing of the work is provided~~
~~14 21 for in another provision of law.~~
14 22 Sec. 22. Section 161C.2, subsection 1, paragraph b, Code
14 23 2005, is amended to read as follows:
14 24 b. Any work project with an estimated cost ~~of twenty-five~~
~~14 25 thousand dollars or more in excess of the competitive bid~~
~~14 26 threshold in section 38.3, or as established in section 314.1B~~
14 27 shall be undertaken as a public contract as provided in
14 28 chapters 73A and 573. The local contracting organization
14 29 shall designate a contracting officer and shall establish
14 30 procedures to manage the contract, approve bills for payment,
14 31 and review proposed change orders or amendments to the
14 32 contract.
14 33 Sec. 23. Section 218.58, subsections 2 through 4, Code
14 34 2005, are amended to read as follows:
14 35 2. The director shall have plans and specifications
15 1 prepared by the department of administrative services for
15 2 authorized construction, repair, or improvement projects
15 3 costing over ~~twenty-five thousand dollars the competitive bid~~
~~15 4 threshold in section 38.3, or as established in section~~
~~15 5 314.1B.~~ An appropriation for a project shall not be expended
15 6 until the department of administrative services has adopted
15 7 plans and specifications and has completed a detailed estimate
15 8 of the cost of the project, prepared under the supervision of
15 9 a registered architect or registered professional engineer.
15 10 Plans and specifications shall not be adopted and a project
15 11 shall not proceed if the project would require an expenditure
15 12 of money in excess of the appropriation.
15 13 3. The department of administrative services shall comply
~~15 14 with the competitive bid procedures in chapter 38 to let all~~
15 15 contracts under chapter 8A, subchapter III, for authorized
15 16 construction, repair, or improvement of departmental
15 17 buildings, grounds, or equipment.
15 18 4. If the director of the department of human services and
15 19 the director of the department of administrative services
15 20 determine that emergency repairs or improvements estimated to
15 21 cost more than ~~twenty-five thousand dollars the competitive~~
~~15 22 bid threshold in section 38.3, or as established in section~~
~~15 23 314.1B~~ are necessary to assure the continued operation of a
15 24 departmental institution, the requirements of subsections 2
15 25 and 3 for preparation of plans and specifications and
15 26 competitive procurement procedures are waived. A
15 27 determination of necessity for waiver by the director of the
15 28 department of human services and the director of the
15 29 department of administrative services shall be in writing and
15 30 shall be entered in the project record for emergency repairs
15 31 or improvements. Emergency repairs or improvements shall be
15 32 accomplished using plans and specifications and competitive
~~15 33 procurement quotation or bid procedures, as applicable, to the~~
15 34 greatest extent possible, considering the necessity for rapid
15 35 completion of the project. A waiver of the requirements of
16 1 subsections 2 and 3 does not authorize an expenditure in
16 2 excess of an amount otherwise authorized for the repair or
16 3 improvement.
16 4 Sec. 24. Section 262.34, subsection 4, Code Supplement
16 5 2005, is amended by striking the subsection and inserting in
16 6 lieu thereof the following:
16 7 4. The contractor shall release retained funds to the
16 8 subcontractor or subcontractors in the same manner as retained
16 9 funds are released to the contractor by the board. Each
16 10 subcontractor shall pass through to each lower tier
16 11 subcontractors all retained fund payments from the contractor.
16 12 Sec. 25. Section 297.7, subsection 1, Code 2005, is
16 13 amended to read as follows:

16 14 1. ~~Sections 73A.2 and 73A.18 are Chapter 38 is applicable~~
16 15 to the construction and repair of school buildings and other
16 16 public improvements as defined in section 38.2.

16 17 Sec. 26. Section 297.8, Code 2005, is amended to read as
16 18 follows:

16 19 297.8 EMERGENCY REPAIRS.

16 20 When emergency repairs costing more than ~~twenty-five~~
16 21 ~~thousand dollars~~ the competitive bid threshold in section
16 22 38.3, or as established in section 314.1B are necessary in
16 23 order to prevent the closing of any school, the provisions of
16 24 the law with reference to advertising for bids shall not
16 25 apply, and in that event the board may contract for such
16 26 emergency repairs without advertising for bids. However,
16 27 before such emergency repairs can be made to any schoolhouse,
16 28 it shall be necessary to procure a certificate from the area
16 29 education agency administrator that such emergency repairs are
16 30 necessary to prevent the closing of the school.

16 31 Sec. 27. Section 314.1, subsection 2, Code 2005, is
16 32 amended to read as follows:

16 33 2. Notwithstanding any other provision of law to the
16 34 contrary, a public improvement that involves the construction,
16 35 reconstruction, or improvement of a highway, bridge, or
17 1 culvert and that has a cost in excess of the applicable
17 2 threshold in section 73A.18, 262.34, 297.7, 309.40, 310.14, or
17 3 313.10, or 384.96, as modified by the bid threshold
17 4 subcommittee pursuant to section 314.1B, shall be advertised
17 5 and let for bid, except such public improvements that involve
17 6 emergency work pursuant to section 309.40A, 313.10, ~~384.95,~~ or
17 7 ~~384.103,~~ subsection 2. However, a public improvement that has
17 8 an estimated total cost to a city in excess of a threshold of
17 9 fifty thousand dollars, as modified by the bid threshold
17 10 subcommittee pursuant to section 314.1B, and that involves the
17 11 construction, reconstruction, or improvement of a highway,
17 12 bridge, or culvert that is under the jurisdiction of a city
17 13 with a population of more than fifty thousand, shall be
17 14 advertised and let for bid.

17 15 Sec. 28. Section 314.1A, Code 2005, is amended to read as
17 16 follows:

17 17 314.1A DETAILED COST ACCOUNTINGS BY CITIES AND COUNTIES ==
17 18 RULES.

17 19 1. The department shall adopt rules prescribing the manner
17 20 by which cities and counties shall provide a detailed cost
17 21 accounting under section 309.93 or 312.14, of all instances of
17 22 the use of day labor or public or private contracts for
17 23 construction, reconstruction, or improvement projects ~~on~~
17 24 ~~highways of a highway, bridge, or culvert~~ within their
17 25 jurisdiction.

17 26 2. The department shall adopt rules prescribing the manner
17 27 by which governmental entities, as defined in section 38.2,
17 28 shall administer section 38.14 concerning public improvement
17 29 quotations.

17 30 3. The rules shall include definitions concerning types
17 31 of projects and uniform requirements and definitions that
17 32 cities and counties under subsection 1 and governmental
17 33 entities under subsection 2 shall use in determining costs for
17 34 such projects. The department shall establish ~~an~~ horizontal
17 35 and vertical infrastructure advisory committee committees
18 1 composed of representatives of public sector agencies, private
18 2 sector vertical and horizontal contractor organizations, and
18 3 certified public employee collective bargaining organizations
18 4 to make recommendations for such rules.

18 5 Sec. 29. Section 314.1B, Code 2005, is amended to read as
18 6 follows:

18 7 314.1B BID THRESHOLD SUBCOMMITTEE == ADJUSTMENTS ==
18 8 NOTICE.

18 9 1. HORIZONTAL INFRASTRUCTURE.

18 10 a. The director of the department shall appoint, from the
18 11 members of the appropriate advisory committee established
18 12 under section 314.1A, a horizontal infrastructure bid
18 13 threshold subcommittee for highway, bridge, or culvert
18 14 projects. The subcommittee shall consist of seven members,
18 15 three of whom shall be representatives of ~~local public sector~~
18 16 ~~agencies cities and counties,~~ three of whom shall be
18 17 representatives of private sector contractor organizations,
18 18 and with the remaining member being the director or the
18 19 director's designee, who shall serve as chairperson of the
18 20 subcommittee. A vacancy in the membership of the subcommittee
18 21 shall be filled by the director.

18 22 2. ~~a. b.~~ The subcommittee shall review the competitive
18 23 bid thresholds applicable to city and county highway, bridge,
18 24 and culvert projects. The subcommittee shall review price

18 25 adjustments for all types of city and county highway, bridge,
18 26 and culvert construction, reconstruction, and improvement
18 27 projects, based on changes in the construction price index
18 28 from the preceding year. Upon completion of the review the
18 29 subcommittee may make adjustments in the applicable bid
18 30 thresholds for types of work based on the price adjustments.
18 31 ~~b.~~ c. A bid threshold, under this subsection, shall not
18 32 be adjusted to an amount that is less than the bid threshold
18 33 applicable to a city or county on July 1, ~~2002~~ 2006, as
18 34 provided in section 73A.18, 309.40, 310.14, or 314.1, ~~or~~
~~18 35 384.96.~~ An adjusted bid threshold shall take effect as
19 1 provided in subsection 3, and shall remain in effect until a
19 2 new adjusted bid threshold is established and becomes
19 3 effective as provided in this section.
19 4 2. VERTICAL INFRASTRUCTURE.
19 5 a. The director of the department shall appoint, from the
19 6 members of the appropriate advisory committee established
19 7 under section 314.1A, a vertical infrastructure bid threshold
19 8 subcommittee for public improvements as defined in section
19 9 38.2. The subcommittee shall consist of seven members, three
19 10 of whom shall be representatives of governmental entities as
19 11 defined in section 38.2, three of whom shall be
19 12 representatives of private sector vertical infrastructure
19 13 contractor organizations, and with the remaining member being
19 14 the director or the director's designee, who shall serve as
19 15 chairperson of the subcommittee. A vacancy in the membership
19 16 of the subcommittee shall be filled by the director.
19 17 b. The subcommittee appointed under this subsection shall
19 18 review the competitive bid thresholds applicable to
19 19 governmental entities under chapter 38. The subcommittee
19 20 shall review price adjustments for all types of construction,
19 21 reconstruction, and public improvement projects based on the
19 22 changes in the construction price index, building cost index,
19 23 and material cost index from the preceding year. Upon
19 24 completion of the review the subcommittee may make adjustments
19 25 in the applicable bid thresholds for types of work based on
19 26 the price adjustments.
19 27 c. The subcommittee shall not make an initial adjustment
19 28 to the competitive bid threshold in section 38.3 to be
19 29 effective prior to January 1, 2012. Thereafter, the
19 30 subcommittee shall adjust the bid threshold amount in
19 31 accordance with subsection 3 but shall not adjust the bid
19 32 threshold to an amount less than the bid threshold applicable
19 33 to a governmental entity on January 1, 2007.
19 34 d. Beginning July 1, 2006, the subcommittee shall make
19 35 adjustments to the competitive quotation threshold in section
20 1 38.14 for vertical infrastructure in accordance with
20 2 adjustments made by the horizontal infrastructure subcommittee
20 3 under subsection 1 applicable to city and county highway,
20 4 bridge, and culvert projects.
20 5 3. REVIEW == PUBLICATION. The Each subcommittee shall
20 6 meet to conduct the review and make the adjustments described
20 7 in this section on or before August 1 of every other year, or
20 8 of every year if determined necessary by the subcommittee-
~~20 9 with the first meeting occurring on or before August 1, 2002.~~
20 10 By September 1 of each year in which the a subcommittee makes
20 11 adjustments in the bid or quotation thresholds, the director
20 12 shall cause an advisory notice to be published in the Iowa
20 13 administrative bulletin and in a newspaper of general
20 14 circulation in this state, stating the adjusted bid and
20 15 quotation thresholds to be in effect on January 1 of the
20 16 following year, as established by the ~~subcommittee~~
20 17 ~~subcommittees~~ under this section.
20 18 Sec. 30. Section 330A.12, Code 2005, is amended to read as
20 19 follows:
20 20 330A.12 AWARD OF CONTRACT.
20 21 All contracts entered into by an authority for the
20 22 construction, reconstruction, and improvement of aviation
20 23 facilities shall be entered into pursuant to and shall comply
20 24 with the competitive bid procedures in chapter ~~73A~~ 38.
20 25 However, where an authority determines an emergency exists, it
20 26 may enter into contracts obligating the authority for not in
20 27 excess of ~~twenty-five thousand dollars~~ the competitive bid
20 28 threshold in section 38.3, or as established in section 314.1B
20 29 per emergency without regard to the requirements of chapter
20 30 ~~73A~~ 38 and the authority may proceed with the necessary action
20 31 as expeditiously as possible to the extent necessary to
20 32 resolve such emergency.
20 33 Sec. 31. Section 331.341, subsections 1 and 2, Code 2005,
20 34 are amended to read as follows:
20 35 1. When the estimated total cost of a public improvement,

21 1 other than improvements which may be paid for from the
21 2 secondary road fund, exceeds the ~~amount specified in section~~
~~21 3 309.40 competitive bid threshold in section 38.3, or as~~
21 4 ~~established in section 314.1B~~, the board shall follow the
21 5 ~~contract letting competitive bid procedures provided for~~
21 6 ~~cities governmental entities in sections 384.95 to 384.103~~
21 7 ~~chapter 38. However, in following those sections the board~~
~~21 8 shall substitute the word "county" for the word "city",~~
~~21 9 section 331.305 for section 362.3, shall consider "governing~~
~~21 10 body" to mean the board, and shall exclude references to a~~
~~21 11 city utility, utility board of trustees, or public utilities.~~
21 12 As used in this section, "public improvement" means the same
21 13 as defined in section ~~384.95~~ 38.2 as modified by this
21 14 subsection.

21 15 2. The board shall give preference to Iowa products and
21 16 labor in accordance with chapter 73 and shall comply with bid
21 17 and contract requirements in ~~section 73.2~~ chapter 38.

21 18 Sec. 32. Section 331.341, subsection 4, Code 2005, is
21 19 amended to read as follows:

21 20 4. If the contract price for a public improvement is
21 21 ~~fifteen twenty-five~~ thousand dollars or more, the board shall
21 22 require a contractor's bond in accordance with chapter 573.

21 23 Sec. 33. Section 357.14, unnumbered paragraph 2, Code
21 24 2005, is amended to read as follows:

21 25 When the completed plans and specifications are on file
21 26 with the county auditor, ~~and the estimated total cost of the~~
21 27 ~~project exceeds the competitive bid threshold in section 38.3,~~
~~21 28 or as established in section 314.1B~~, the board of supervisors
21 29 shall advertise for bids and shall publish a notice once each
21 30 week for two consecutive weeks in some newspaper published in
21 31 the county in which the improvement is to be constructed,
21 32 setting forth the location and nature of the improvement and
21 33 the date and place where bids will be received by the board
21 34 ~~comply with the competitive bid procedures in chapter 38 for~~
21 35 ~~the construction of the project. The last published notice to~~
~~22 1 bidders shall be at least seven days before the time set for~~
~~22 2 receiving bids. Bidders shall be required to submit certified~~
~~22 3 checks or credit union certified share drafts for five percent~~
~~22 4 of the amount of the bid.~~

22 5 Sec. 34. Section 357A.12, unnumbered paragraph 2, Code
22 6 2005, is amended to read as follows:

22 7 The procedures for ~~contract letting competitive bidding~~
22 8 ~~specified in sections 384.95 through 384.102 chapter 38 and~~
22 9 ~~for emergency repairs as specified in section 384.103,~~
22 10 subsection 2, shall apply to construction carried out pursuant
22 11 to this chapter. ~~References in those sections to a city shall~~
~~22 12 be applicable to a rural water district operating under this~~
~~22 13 chapter, and references to a city council shall be applicable~~
~~22 14 to the board of directors of a rural water district.~~

22 15 Sec. 35. Section 364.4, subsection 4, paragraph i, Code
22 16 2005, is amended to read as follows:

22 17 i. A contract for construction by a private party of
22 18 property to be leased or lease-purchased by a city is not a
22 19 contract for a public improvement under section ~~384.95,~~
~~22 20 subsection 1, except for purposes of section 384.102~~ 38.2,
22 21 ~~subsection 3, except for purposes of section 38.12. However,~~
22 22 if a lease-purchase contract is funded in advance by means of
22 23 the lessor depositing moneys to be administered by a city,
22 24 with the city's obligations to make rent payments commencing
22 25 with its receipt of moneys, a contract for construction of the
22 26 property in question awarded by the city is subject to
22 27 ~~division VI of chapter 384~~ 38.

22 28 Sec. 36. Section 384.20, unnumbered paragraph 3, Code
22 29 2005, is amended to read as follows:

22 30 "Continuing appropriation" means the unexpended portion of
22 31 the cost of public improvements, as defined in section ~~384.95~~
22 32 38.3, which cost was adopted through a public hearing pursuant
22 33 to section ~~384.102~~ 38.12 and was included in an adopted or
22 34 amended budget of a city. A continuing appropriation does not
22 35 expire at the conclusion of a fiscal year. A continuing
23 1 appropriation continues until the public improvement is
23 2 completed, but expenditures under the continuing appropriation
23 3 shall not exceed the resources available for paying for the
23 4 public improvement.

23 5 Sec. 37. Section 384.103, subsection 2, unnumbered
23 6 paragraph 2, Code 2005, is amended to read as follows:

23 7 In that event the governing body may contract for emergency
23 8 repairs without holding a public hearing and advertising for
23 9 bids, and the provisions of ~~sections 384.96 to 384.102,~~
23 10 ~~chapter 38~~ do not apply.

23 11 Sec. 38. Section 390.3, unnumbered paragraph 2, Code 2005,

23 12 is amended to read as follows:

23 13 However, in the performance of a joint agreement, the
23 14 governing body is not subject to statutes generally applicable
23 15 to public contracts, including hearings on plans,
23 16 specifications, form of contracts, costs, notice and
23 17 competitive bidding required under ~~sections 384.95 through~~
23 18 chapter 38 and section 384.103, unless all parties to the
23 19 joint agreement are cities located within the state of Iowa.

23 20 Sec. 39. Section 904.314, unnumbered paragraph 1, Code
23 21 2005, is amended to read as follows:

23 22 The director shall cause plans and specifications to be
23 23 prepared by the department of administrative services for all
23 24 improvements authorized and costing over ~~twenty-five thousand~~
~~23 25 dollars the competitive bid threshold in section 38.3, or as~~
23 26 established in section 314.1B. An appropriation for any
23 27 improvement costing over ~~twenty-five thousand dollars the~~
23 28 competitive bid threshold in section 38.3, or as established
23 29 in section 314.1B, shall not be expended until the adoption of
23 30 suitable plans and specifications, prepared by a competent
23 31 architect or engineer and accompanied by a detailed statement
23 32 of the amount, quality, and description of all material and
23 33 labor required for the completion of the improvement.

23 34 Sec. 40. Section 904.315, unnumbered paragraph 1, Code
23 35 2005, is amended to read as follows:

24 1 The director of the department of administrative services
24 2 shall, in writing, let all contracts for authorized
24 3 improvements ~~costing in excess of twenty-five thousand dollars~~
24 4 under chapter 8A, subchapter III, costing in excess of the
24 5 competitive bid threshold in section 38.3, or as established
24 6 in section 314.1B. Upon prior authorization by the director,
24 7 improvements costing five thousand dollars or less may be made
24 8 by the superintendent of any institution.

24 9 Sec. 41. Sections 384.95 through 384.102, Code 2005, are
24 10 repealed.

24 11 Sec. 42. EFFECTIVE DATE. Sections 24, 28, and 29 of this
24 12 Act take effect upon enactment and the remainder of this Act
24 13 takes effect January 1, 2007.

24 14 Sec. 43. APPLICABILITY DATE. This Act applies to public
24 15 improvement contracts governed by chapter 38 and entered into
24 16 on or after January 1, 2007.

24 17 HF 2713

24 18 eg:rj/es/25